S.B. CIVIL MISC. APPEAL NO.900/2007.
Smt. Narayan Kanwar & Ors.
Vs.
Ram Dayal & Ors.

Date of Order :: 9th March 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Anil Kaviraj, for the appellants.

...

BY THE COURT:

For awarding compensation to the wife, two minor children and parents of about 32-34 years old vehicular accident victim Bhagwat Singh, the Tribunal has taken note of the assertion of the claimants regarding income of the deceased at Rs.1,664/- per month as corroborated by a slip (Ex.16) of Chairman Silk Mills Private Limited; and then, looking to the overall circumstances of the case, has estimated the income at Rs.1,800/- per month and deducting one-third wherefrom, has taken loss of contribution for the claimants at Rs.14,400/- per annum and with application of multiplier of 17, has assessed pecuniary loss at Rs.2,44,800/-; and after allowing Rs.20,000/- towards non-pecuniary loss and Rs.5,000/- towards funeral expenses, has assessed the loss in the sum of Rs.2,69,800/- and awarded compensation in the round figure of Rs.2,70,000/-. The Tribunal has proceeded to apportion the award amount in the manner that 40% has been

allowed to the wife, 15% each to the two children and 15% each to the father and mother of the deceased.

The award aforesaid is sought to be questioned in this appeal by the wife and children of the deceased as being low and insufficient; and the apportionment being not consistent with the loss of dependency of the claimants.

Learned counsel appearing for the appellants has strenuously contended that the Tribunal has been in error in not taking into account the future prospects in relation to the deceased who was merely 32 years of age and in taking loss of contribution at a meagre amount of Rs.14,400/- per annum. Learned counsel further contended that the Tribunal has been in error in awarding lower amount on non-pecuniary loss and the ultimate award falls too short of just compensation. Learned counsel also contended that the Tribunal has been in error in apportioning 30% of the award amount in favour of the parents, though they were not the dependents of the deceased and such apportionment is not reasonable particularly in view of the lower side award amount.

Having given a thoughtful consideration to the submissions made on behalf of the appellants and having scanned through the entire record, this Court is of opinion that though the amount awarded by the Tribunal appears to be standing on the lower side but in the overall circumstances of

the case, the award in question cannot be said to be too low or grossly inadequate than that of just compensation admissible in this case and the Tribunal does not seem to have erred whether on quantification or on apportionment.

So far the income of deceased is concerned, admittedly the same was stated at Rs.1,664/- per month in the claim application itself with the averment that the deceased was working on a weaving machine. The document Ex.16 relied upon by the claimants when taken into consideration, only shows that the deceased was getting Rs.64/- per day; and with 4 days off, he got Rs.1,664/- in the month of June 2003; and that remains the last income earned by the deceased, date of accident being 18.07.2003. In view of the evidence led by the claimants, the Tribunal cannot be said to have erred in accepting the same as it is and yet taking a reasonable figure of monthly income of the deceased at Rs.1,800/- for the purpose of assessment of pecuniary loss.

The submission about consideration of future prospects does not fit in the fact situation of the present case where the deceased has not been shown in any settled job or employment so as to consider reasonable possibility of future enhancement of income. The Tribunal has applied maximum side multiplier of 17 to assess pecuniary loss and such assessment does not appear to be falling of too short of just

compensation as could be allowed on the basis of evidence available on record.

The amount of non-pecuniary loss at Rs. 20,000/- though appears to be on the lower side; but essentially being that of general damages, cannot be said to be grossly insufficient nor the Tribunal can be said to have committed any error of law or facts on that count, looking to the number of claimants and the overall circumstances. In the ultimate analysis the award in question though moderate, cannot be said to be grossly inadequate so as to call for modification in appeal.

On division of the award amount, the Tribunal has apportioned about 70% in favour of the claimants-appellants and has allowed only 15% each to the father and mother of the deceased. Even if not solely dependent on him, a reasonable contribution to the parents by the deceased cannot be ruled out and the view taken by the Tribunal cannot be said to be unreasonable.

The award in question cannot be said to be improper, too low, or grossly inadequate so as to warrant interference in appeal. Hence, the appeal fails and is dismissed summarily.

(DINESH MAHESHWARI), J.

Mohan/